

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

HOUSE BILL 144
RATIFIED BILL

AN ACT TO MAKE VARIOUS CHANGES TO THE GENERAL STATUTES TO INCLUDE CREDIT UNIONS BY REFERENCING FEDERALLY INSURED DEPOSITORY INSTITUTIONS AND TO INCLUDE TRUST INSTITUTIONS, TO DECREASE THE FREQUENCY OF EXAMINATIONS BY THE ADMINISTRATOR OF CREDIT UNIONS, AND TO CORRECT A CITATION.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 1A-1, Rule 22, reads as rewritten:

"Rule 22. Interpleader.

...
(b) Where funds are subject to competing claims by parties to the action, the court may order the party in possession of the funds either to deposit the funds in an interest bearing account in a ~~bank, savings and loan, or trust company licensed to do business in this State~~ federally insured depository institution or a trust institution authorized to do business in this State or to deposit the funds with the clerk. If the funds are deposited in a ~~bank, savings and loan, or trust company, federally insured depository institution or a trust institution authorized to do business in this State,~~ the court shall specify the type of interest bearing account to be used. Funds deposited with the clerk shall be invested or deposited as provided in G.S. 7A-112 and G.S. 7A-112.1. Upon determination of the action, the judgment shall provide for disbursement of the principal and interest earned on the funds while so deposited."

SECTION 1.(b) G.S. 20-63.01 reads as rewritten:

"§ 20-63.01. Bonds required for commission contractors.

...
(c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Division and approval of one of the guaranty bond alternatives set forth in this subsection. With the approval of the Division, an applicant may file with the clerk of the superior court and/or the register of deeds of the county in which the commission contractor will be located, in lieu of a bond:

- (1) An assignment of a savings account in an amount equal to the bond required (i) ~~which that~~ is in a form acceptable to the Division; (ii) ~~which that~~ is executed by the applicant; (iii) ~~which that~~ is executed by a ~~state or federal savings and loan association, state bank, or national bank that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution or a trust institution authorized to do business in this State; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section.
- (2) A certificate of deposit (i) ~~which that~~ is executed by a ~~state or federal savings and loan association, state bank, or national bank which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution or a trust



institution authorized to do business in this State; (ii) ~~which that~~ is either payable to the State of North Carolina, unrestrictively endorsed to the Division of Motor Vehicles; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Division of Motor Vehicles; or in the case of a nonnegotiable certificate of deposit, is assigned to the Division of Motor Vehicles in a form satisfactory to the Division; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section."

SECTION 1.(c) G.S. 42A-17(a) reads as rewritten:

"(a) A vacation rental agreement shall identify the name and address of the ~~bank or savings and loan association~~ federally insured depository institution or trust institution in which the tenant's security deposit and other advance payments are held in a trust account, and the landlord and real estate broker shall provide the tenant with an accounting of such deposit and payments if the tenant makes a reasonable request for an accounting prior to the tenant's occupancy of the property."

SECTION 1.(d) G.S. 85B-7.1(a) reads as rewritten:

"(a) Each licensee who does not disburse all funds to the seller on auction day shall maintain a trust or escrow account and shall deposit in the account all funds that are received for the benefit of another person and are not disbursed to the seller on auction day. The licensee shall deposit funds that are not disbursed on auction day with ~~an insured bank or savings and loan association located in North Carolina~~ a federally insured depository institution or a trust institution authorized to do business in this State. At or before the time of all final settlements, the auctioneer shall provide the seller or consignor with a settlement statement, which includes a description of all goods sold, the selling price of the goods sold, the net proceeds due to the seller or consignor, the name and address of the person receiving the disbursement, and the amount of the disbursement. All settlement statements shall be signed by the licensee or the licensee's agent and by the person receiving the disbursement."

SECTION 1.(e) G.S. 85B-8 reads as rewritten:

"§ 85B-8. Prohibited acts; assessment of civil penalty; denial, suspension, or revocation of license.

(a) The following shall be grounds for the assessment of a civil penalty in accordance with G.S. 85B-3.1(b) or the denial, suspension, or revocation of an auctioneer, auctioneer apprentice, or auction firm license:

...

(7) Commingling the funds or property of a client with the licensee's own or failing to maintain and deposit in a trust or escrow account in ~~an insured bank or savings and loan association located in North Carolina~~ a federally insured depository institution or a trust institution authorized to do business in this State funds received for another person through sale at auction.

...."

SECTION 1.(f) G.S. 86A-22 reads as rewritten:

"§ 86A-22. Licensing and regulating barber schools and colleges.

The North Carolina State Board of Barber Examiners may approve barber schools or colleges in the State, and may prescribe rules and regulations for their operation. The Board shall adopt rules establishing criteria for barber schools and colleges to maintain their accreditation. No barber school or college shall be approved by the Board unless the school or college meets all of the following requirements:

...

(7) ...

c. An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Board and approval of one of the guaranty

bond alternatives set forth in this subpart. With the approval of the Board, an applicant may file with the clerk of the superior court of the county in which the school will be located, in lieu of a bond:

1. An assignment of a savings account in an amount equal to the bond required (i) ~~which~~ that is in a form acceptable to the Board; (ii) ~~which~~ that is executed by the applicant; ~~and~~ (iii) ~~which~~ that is executed by a ~~state or federal savings and loan association, state bank, or national bank, that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution or a trust institution authorized to do business in this State; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subpart b. above.
2. A certificate of deposit (i) ~~which~~ that is executed by a ~~state or federal savings and loan association, state bank, or national bank, which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution or a trust institution authorized to do business in this State ~~and~~ (ii) ~~which~~ that is either payable to the State of North Carolina, unrestrictedly endorsed to the Board; in the case of a negotiable certificate of deposit, is unrestrictedly endorsed to the Board; or in the case of a nonnegotiable certificate of deposit, is assigned to the Board in a form satisfactory to the Board; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subpart b. above."

SECTION 1.(g) G.S. 88B-17 reads as rewritten:

"§ 88B-17. Bond required for private cosmetic art schools.

...

(c) An applicant who is unable to secure a bond may seek from the Board a waiver of the guaranty bond requirement and approval of one of the guaranty bond alternatives set forth in this subsection. With the approval of the Board, an applicant may file one of the following instead of a bond with the clerk of court in the county in which the school is located:

- (1) An assignment of a savings account in an amount equal to the bond required that is in a form acceptable to the Board, and is executed by the applicant and a ~~state or federal savings and loan association, state bank, or national bank that is doing business in this State and whose accounts are insured by a federal depositor's corporation;~~ federally insured depository institution or a trust institution authorized to do business in this State, and access to the account is subject to the same conditions as those for a bond in subsection (b) of this section.
- (2) A certificate of deposit that is executed by a ~~state or federal savings and loan association, state bank, or national bank that is doing business in this State and whose accounts are insured by a federal depositor's corporation~~ federally insured depository institution or a trust institution authorized to do business in this State and access to the certificate of deposit is subject to the same conditions as those for a bond in subsection (b) of this section."

SECTION 1.(h) G.S. 90-171.55 reads as rewritten:

"§ 90-171.55. Nurses Aides Registry.

...

(b)

...

(3)

An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Board and approval of one of the guaranty bond alternatives set forth in this subdivision. With the approval of the Board, an applicant may file with the clerk of the superior court of the county in which the program will be located, in lieu of a bond:

- a. An assignment of a savings account in an amount equal to the bond required (i) ~~which~~that is in a form acceptable to the Board; (ii) ~~which~~that is executed by the applicant; ~~and~~ (iii) ~~which~~that is executed by a ~~state or federal savings and loan association, state bank, or national bank, that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution or a trust institution authorized to do business in this State; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subdivision (2) of this subsection.
- b. A certificate of deposit (i) ~~which~~that is executed by a ~~state or federal savings and loan association, state bank, or national bank, which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution or a trust institution authorized to do business in this State ~~and~~ (ii) ~~which~~that is either payable to the State of North Carolina, unrestrictively endorsed to the Board; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Board; or in the case of a nonnegotiable certificate of deposit, is assigned to the Board in a form satisfactory to the Board; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subdivision (2) of this subsection."

SECTION 1.(i) G.S. 90-210.86 reads as rewritten:

"§ 90-210.86. Deposit or investment of funds of mutual burial associations.

Funds belonging to each mutual burial association over and above the amount determined by the Board of Funeral Service to be necessary for operating capital shall be invested in:

- (1) Deposits in any ~~bank or trust company in this State.~~federally insured depository institution or any trust institution authorized to do business in this State.
- (2) Obligations of the United States of America.
- (3) Obligations of any agency or instrumentality of the United States of America if the payment of interest and principal of ~~such~~the obligations is fully guaranteed by the United States of America.
- (4) Obligations of the State of North Carolina.
- (5) Bonds and notes of any North Carolina local government or public authority, subject to ~~such~~ restrictions as the Board of Funeral Service may impose.
- (6) Shares of or deposits in any savings and loan association organized under the laws of this State and shares of or deposits in any federal savings and loan association having its principal office in this State, provided that ~~any such~~the savings and loan association is insured by the United States of America or any agency thereof or by any mutual deposit guaranty association authorized by the Commissioner of Insurance of North Carolina to do

business in North Carolina pursuant to Article 7A of Chapter 54 of the General Statutes.

- (7) Obligations of the Federal Intermediate Credit Banks, the Federal Home Loan Banks, Fannie Mae, the Banks for Cooperatives, and the Federal Land Banks, maturing no later than 18 months after the date of purchase.

Violation of the provisions of this section shall, after hearing, be cause for revocation or suspension of license to operate a mutual burial association."

SECTION 1.(j) G.S. 93A-3 reads as rewritten:

"§ 93A-3. Commission created; compensation; organization.

...

(b) The provisions of G.S. 93B-5 notwithstanding, members of the Commission shall receive as compensation for each day spent on work for the Commission a per diem in an amount established by the Commission by rule, and mileage reimbursement for transportation by privately owned automobile at the business standard mileage rate set by the Internal Revenue Service per mile of travel along with actual cost of tolls paid. The total expense of the administration of this Chapter shall not exceed the total income therefrom; and none of the expenses of said Commission or the compensation or expenses of any office thereof or any employee shall ever be paid or payable out of the treasury of the State of North Carolina; and neither the Commission nor any officer or employee thereof shall have any power or authority to make or incur any expense, debt or other financial obligation binding upon the State of North Carolina. After all expenses of operation, the Commission may set aside an expense reserve each year. The Commission may deposit moneys in accounts, certificates of deposit, or time deposits as the Commission may approve, in any ~~bank, savings and loan association, or trust company.~~ federally insured depository institution or any trust institution authorized to do business in this State. Moneys also may be invested in the same classes of securities referenced in G.S. 159-30(c).

...."

SECTION 1.(k) G.S. 93A-42 reads as rewritten:

"§ 93A-42. Time shares deemed real estate.

...

(d) The independent escrow agent provided by G.S. 93A-42(c)(2) shall deposit and maintain the purchaser's payments in an insured trust or escrow account in a ~~bank or savings and loan association located in this State.~~ federally insured depository institution or a trust institution authorized to do business in this State. The trust or escrow account may be interest-bearing and the interest earned shall belong to the developer, if agreed upon in writing by the purchaser; provided, however, if the time share instrument is not recorded within the time periods specified in this section, then the interest earned shall belong to the purchaser. The independent escrow agent shall return all payments to the purchaser at the expiration of 180 days following the execution of the contract of sale by the purchaser, unless prior to that time the time share instrument has been recorded. However, if prior to the expiration of 180 days following the execution of the contract of sale, the developer and the purchaser provide their written consent to the independent escrow agent, the developer's obligation to record the time share instrument and the escrow period may be extended for an additional period of 120 days. Upon recordation of the time share instrument, the independent escrow agent shall pay the purchaser's funds to the developer. Upon request by the Commission, the independent escrow agent shall promptly make available to the Commission inspection of records of money held by the independent escrow agent.

...."

SECTION 1.(l) G.S. 93A-45 reads as rewritten:

"§ 93A-45. Purchaser's right to cancel; escrow; violation.

...

(c) Any payments received by a time share developer or time share salesperson in connection with the sale of the time share shall be immediately deposited by ~~such the~~ developer or salesperson in a trust or escrow account in ~~an insured bank or savings and loan association in North Carolina~~ a federally insured depository institution or a trust institution authorized to do business in this State and shall remain in such account for 10 days or cancellation by the purchaser, whichever occurs first. Payments held in such trust or escrow accounts shall be deemed to belong to the purchaser and not the developer. In lieu of such escrow requirements, the Commission shall have the authority to accept, in its discretion, alternative financial assurances adequate to protect the purchaser's interest during the contract cancellation period, including but not limited to a surety bond, corporate bond, cash deposit or irrevocable letter of credit in an amount equal to the escrow requirements.

...."

SECTION 2.(a) G.S. 42-50 reads as rewritten:

"§ 42-50. Deposits from the tenant.

Security deposits from the tenant in residential dwelling units shall be deposited in a trust account with a licensed and federally insured depository institution ~~lawfully doing business in this State; or~~ a trust institution authorized to do business in this State, or the landlord may, at ~~his the~~ the landlord's option, furnish a bond from an insurance company licensed to do business in North Carolina. The security deposits from the tenant may be held in a trust account outside of the State of North Carolina only if the landlord provides the tenant with an adequate bond in the amount of ~~said the~~ the deposits. The landlord or ~~his the~~ the landlord's agent shall notify the tenant within 30 days after the beginning of the lease term of the name and address of the bank or institution where ~~his the~~ the tenant's deposit is currently located or the name of the insurance company providing the bond."

SECTION 2.(b) G.S. 42A-15 reads as rewritten:

"§ 42A-15. Trust account uses.

A landlord or real estate broker may require a tenant to pay all or part of any required rent, security deposit, or other fees permitted by law in advance of the commencement of a tenancy under this Chapter if these payments are expressly authorized in the vacation rental agreement. If the tenant is required to make any advance payments, other than a security deposit, whether the payment is denominated as rent or otherwise, the landlord or real estate broker shall deposit these payments in a trust account in a federally insured depository institution ~~lawfully doing business in this State; or~~ a trust institution authorized to do business in this State no later than three banking days after the receipt of these payments. These payments deposited in a trust account shall not earn interest unless the landlord and tenant agree in the vacation rental agreement that the payments may be deposited in an interest-bearing account. The landlord and tenant shall also provide in the agreement to whom the accrued interest shall be disbursed."

SECTION 2.(c) G.S. 47C-4-110 reads as rewritten:

"§ 47C-4-110. Escrow of deposits.

(a) Any deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to G.S. 47C-4-102(c) shall be immediately deposited in a trust or escrow account in a federally insured depository institution ~~lawfully doing business in this State or~~ a trust institution authorized to do business in this State and shall remain in ~~such the~~ the account for such period of time as a purchaser is entitled to cancel pursuant to G.S. 47C-4-108 or cancellation by the purchaser thereunder whichever occurs first. Payments held in such trust or escrow accounts shall be deemed to belong to the purchaser and not the seller.

(b) Except as provided in G.S. 47C-4-108, nothing in subsection (a) is intended to preclude the parties to a contract from providing for the use of progress payments by the declarant during construction."

SECTION 3. G.S. 36C-8-816(31) reads as rewritten:

"(31) Distribute the assets of an inoperative trust consistent with the authority granted under ~~G.S. 28A-22-110~~;G.S. 28A-22-10;"

SECTION 4.(a) G.S. 54-109.11 reads as rewritten:

"§ 54-109.11. Duties of Administrator.

The duties of the Administrator of Credit Unions shall be as follows:

- ...
- (4) To examine at least once ~~a year, and oftener every 18 months, or more often if such an examination be is deemed necessary~~ by the Administrator or ~~his the Administrator's assistant~~, the credit unions formed under ~~this Article~~. Article 14A of this Chapter. A report of ~~such the~~ examination shall be filed with the State Department of Commerce, and a copy mailed to the credit union at its proper address.

...."

SECTION 4.(b) G.S. 54-109.16 reads as rewritten:

"§ 54-109.16. Annual examinations Examinations required; payment of cost.

The Administrator of Credit Unions shall cause every ~~such corporation credit union~~ formed under Article 14A of this Chapter to be examined once ~~a year and every 18 months~~ or whenever ~~he the Administrator~~ deems it necessary. The examiners appointed by ~~him the Administrator~~ shall be given free access to all books, papers, securities, and other sources of information in respect to the ~~corporation; and credit union~~; for the purpose of ~~such examination the examination~~, the Administrator shall ~~have power and authority to~~ may subpoena and examine personally, or by one of ~~his the Administrator's~~ deputies or examiners, witnesses on oath and documents, whether ~~such the~~ witnesses are members of the ~~corporation credit union~~ or not, and whether ~~such the~~ documents are documents of the ~~corporation credit union~~ or not. The Administrator may designate an independent auditing firm to do the work under ~~his the Administrator's~~ direction and supervision, with the cost to be paid by the credit union involved."

SECTION 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of May, 2017.

s/ Bill Rabon
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2017